

1 **LEWIS BRISBOIS BISGAARD & SMITH LLP**

2 DANIEL J. MEAGHER, SBN 66821

3 CAROL SLEETH, SBN 111460

4 One Sansome St., Suite 1400

5 San Francisco, CA 94104

6 Tel: 415.362.2580

7 Fax: 415.434.0882

8 Attorneys for Defendant

9 CALIFORNIA PACIFIC MEDICAL CENTER

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 PETER JAY GERBER and MIRIAM
13 GOLDBERG,

14 Plaintiffs,

15 v,

16 BAYER CORPORATION AND BAYER
17 HEALTHCARE PHARMACEUTICALS, INC.;
18 BMC DIAGNOSTICS, INC.; CALIFORNIA
19 PACIFIC MEDICAL CENTER; GENERAL
20 ELECTRIC COMPANY; GE HEALTHCARE,
21 INC.; GE HEALTHCARE BIO-SCIENCES
22 CORP.; McKESSON CORPORATION;
23 MERRY X-RAY CHEMICAL CORP., and
24 Does 1 through 35,

25 Defendants

CASE NO. 3:07-CV-05918 JSW

DECLARATION OF ALAN PONT, M.D.

DATE: January 11, 2008
TIME: 9:00 a.m.
COURTROOM: 2

26 I, ALLAN PONT, M.D., declare as follows:

27 1. I am the Vice President of Medical Staff Affairs and Chief Medical Officer at
28 California Pacific Medical Center [CPMC]. I am an Executive Management Member of the
Officer's Council of CPMC. I am also a member of the CPMC Board of Directors. I make this
Declaration of my own personal knowledge.

2. CPMC is a California corporation. Its corporate license with the State of California
is C0015273. It is not a professional corporation. As a California corporation, it does not practice

LEWIS BRISBOIS BISGAARD & SMITH LLP
 ONE SANSOME ST., SUITE 1400
 SAN FRANCISCO, CA 94104
 TEL: 415.382.2680

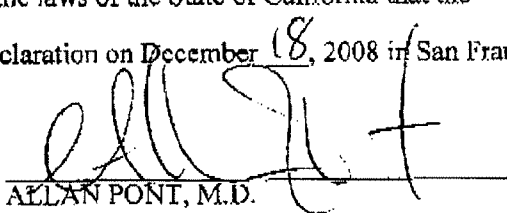
1 medicine. It does not diagnose or examine patients. It is a hospital, and provides medical care to
 2 patients through physicians who are members of its Medical Staff.

3 3. The Medical Staff is a separate entity from CPMC. Members of the medical staff
 4 are licensed physicians and surgeons. CPMC does not employ physicians. Because it is not a
 5 professional corporation, it cannot employ physicians. Physicians who practice medicine at CPMC
 6 (such as emergency medicine physicians, anesthesiologists and radiologists) are employed by
 7 professional medical groups with which CPMC has a contract. The professional medical groups
 8 are independent contractors with CPMC.

9 4. A patient's physician diagnoses the medical condition(s), and orders the appropriate
 10 tests based upon the particular diagnoses. It is the patient's physician who orders imaging studies,
 11 such as MRIs and MRAs. It is the patient's physician who determines, based upon the patient's
 12 particular diagnosis, whether the MRI or MRA requires a contrast agent. CPMC does not
 13 diagnose the patient, order the MRI or MRA, or determine whether an imaging study requires a
 14 contrast agent and, if so, which contrast agent. CPMC receives an order from a patient's physician
 15 for the particular study – e.g., MRI or MRA, with or without contrast.

16 5. MRAs and/or MRAs are performed in CPMC's Department of radiology.
 17 Physicians who work in the Department of radiology are not CPMC employees; they work as
 18 independent contractors with CPMC. They are members of CPMC's Medical Staff. If a contrast
 19 agent is ordered with a MRI and/or MRA, the physician in the Department of radiology determines
 20 the contrast agent to administer. The type of contrast involves a medical decision based upon the
 21 patient's particular diagnosis. CPMC does not determine the contrast agent to use with MRIs
 22 and/or MRAs because physicians, rather than CPMC, make medical decisions.

23 I declare under penalty of perjury under the laws of the State of California that the
 24 foregoing is true and correct. I executed this Declaration on December 18, 2008 in San Francisco,
 25 CA.

26 
 27 ALLAN PONT, M.D.
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